



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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November 12, 2015

Mr. Randall Tison 127788
New Castle Correctional Facility
Post Office Box A
New Castle, Indiana 47362

Re: Formal Complaint 15-FC-260; Alleged Violation of the Access to Public Records Act by the Vanderburgh County Superior Court

Dear Mr. Tison,

This advisory opinion is in response to your formal complaint, which alleges the Vanderburgh County Superior Court ("Court") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Court has responded via Honorable Judge Mary Margaret Lloyd. Her response is enclosed for your review. Pursuant to Ind. Code § 5-14-3-3, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on September 28, 2015.

BACKGROUND

Your complaint dated September 23, 2015 alleges the Vanderburgh County Superior Court ("Court") violated the Access to Public Records Act by failing to provide the records you requested.

On August 31, 2015 you requested records from the Vanderburgh County Circuit Court. However, as of the filing of the complaint, you had not received a response. On September 30, 2015 your complaint was sent to the Circuit Court, who stated they had no knowledge of your request and that your records are located at the Superior Court. This Office then sent your complaint to the Superior Court.

On or before October 18, 2015 you received a communication from the Superior Court. The Court denied your request. Your complaint is therefore considered amended based on this new information.



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On October 7, 2015 the Court responded. The Court notes this request is substantially similar to previous requests you have filed with the Court. The Court bases its denial on Administrative Rule 9 and Ind. Code § 5-14-3-4(a)(8).

ANALYSIS

The public policy of the APRA states that “(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” See Ind. Code § 5-14-3-1. The Vanderburgh County Superior Court is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy Court’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

Ind. Code § 5-14- 3-4(a) provides that records declared confidential by the State Supreme Court are nondiscloseable. Confidentiality of court records is governed by Administrative Rule 9. This rule applies to court records, which is defined as both case records and administrative records. Admin. R. 9(C)(1). “Case record” means any document, information, data, or other item created, collected, received, or maintained by a court, court agency or clerk of court in connection with a particular case. Admin. R. 9(C)(2).

Some case records are confidential, pursuant to Administrative Rule 9(G). The Court notes the records requested contain confidential information regarding victims and the Child Protective Services reports. To the extent the records you sought are confidential under Ind. Code § 5-14- 3-4(a)(8) and Administrative Rule 9, the Court would not have violated the APRA in denying your request.

Furthermore, this matter was considered by this Office in *Opinion of the Public Access Counselor 12-FC-347*, herein incorporated by referenced. I have studied this Opinion and the applicable laws cited and find no compelling reason to overrule former Indiana Public Access Counselor Hoage’s analysis.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Vanderburgh County Superior Court has not violated the Access to Public Records Act.



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Regards,

A handwritten signature in black ink, appearing to read "LHB", is written over a horizontal line.

Luke H. Britt
Public Access Counselor

Cc: Hon. Judge Mary Margaret Lloyd